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Cc: Steinbauer, Gary[steinbauer.gary@epa.gov]; Ogulei, David[Ogulei.David@epa.gov]
From: Garypie, Catherine
Sent: Fri 2/10/2017 10:11:57 PM
Subject: Veolia - Stay Issue

Mr. Kellmeyer:

Thank you for your email earlier today to Acting Regional Administrator Robert Kaplan and Office of Regional Counsel Branch Chief Eric Cohen. Gary Steinbauer, Associate Regional Counsel, and I are handling the Veolia CAA Title V permitting matter on behalf of U.S. EPA Region 5, following the retirement of Jane Woolums from government service.

Region 5 has no objection to ensuring that the Region and Veolia have additional time to resolve this matter prior to the specific terms and conditions of the permit which are the subject of the request for review becoming effective. However, it is not clear to EPA that the motion for stay of all Permit Conditions that you suggest is the appropriate mechanism to accomplish that goal under the applicable regulations. It is EPA's understanding that Veolia will be appealing the permit pursuant to 40 C.F.R. 71.11(l). 40 C.F.R. 71.11(i)(2)(ii) provides that a final permit decision becomes effective 30 days after service of notice of the decision, unless "[r]eview is requested under paragraph (l) of this section (in which case the specific terms and conditions of the permit which are the subject of the request for review shall be stayed)." Thus, a motion for stay would not be necessary in order for a stay to be in effect. You may also wish to note that if and when the Veolia permit appeal is filed, the parties can expect to receive a letter inviting participation in the Board's Alternative Dispute Resolution (ADR) program. EPA will agree to participate in ADR. If Veolia also agrees to participate in ADR, the proceeding will be stayed for at least 60 days. (see

https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/8f612ee7fc725edd852570760071cb8e/381acd4d3ab4ca3585

Region 5 remains willing to discuss the permit terms with Veolia, and hoping to reach resolution on mutually acceptable terms. You may contact me at garypie.catherine@epa.gov or (312) 886-5825 to arrange for a conference call or meeting.

Catherine Garypie, Associate Regional Counsel

Office of Regional Counsel

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